

MT LEGISLATIVE HISTORY

Chapter 96 1989

Bill H _____ S 12

Original bill & hist. ☒ C

H. Committee on Judiciary

S. Committee on Judiciary

Hearing Date(s) _____ C

Hearing Date(s) _____ C

3/3 ☒ C

1/4 ☒ C

_____ C

_____ C

_____ C

_____ C

Date Out 3/3 C

1/4 ☒ C

Did this bill originate in an interim committee? ___ Yes ☒ No

Committee _____

Report _____

SENATE BILL NO. 12
INTRODUCED BY HALLIGAN

IN THE SENATE

JANUARY 2, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
JANUARY 5, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 6, 1989	PRINTING REPORT.
JANUARY 7, 1989	SECOND READING, DO PASS.
JANUARY 9, 1989	ENGROSSING REPORT.
JANUARY 10, 1989	THIRD READING, PASSED. AYES, 49; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

JANUARY 10, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
FEBRUARY 20, 1989	FIRST READING.
MARCH 3, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 4, 1989	SECOND READING, CONCURRED IN.
MARCH 6, 1989	THIRD READING, CONCURRED IN. AYES, 90; NOES, 1.
	RETURNED TO SENATE.

IN THE SENATE

MARCH 7, 1989	RECEIVED FROM HOUSE.
---------------	----------------------

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 SENATE BILL NO. 12
2 INTRODUCED BY HALLIGAN
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE
5 JURISDICTION OF THE MONTANA MEDICAL LEGAL PANEL TO CLAIMS
6 AGAINST PHYSICIANS AND DENTISTS EMPLOYED BY A UNIVERSITY OR
7 COLLEGE INFIRMARY; AMENDING SECTION 27-6-103, MCA; AND
8 PROVIDING AN APPLICABILITY DATE."
9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11 **Section 1.** Section 27-6-103, MCA, is amended to read:
12 "27-6-103. Definitions. As used in this chapter, the
13 following definitions apply:
14 (1) "Dentist" means:
15 (a) for purposes of the assessment of the annual
16 surcharge, an individual licensed to practice dentistry
17 under the provisions of Title 37, chapter 4, who at the time
18 of the assessment:
19 (i) has as his principal residence or place of dental
20 practice the state of Montana;
21 (ii) is not employed full-time by any federal
22 governmental agency or entity; and
23 (iii) is not fully retired from the practice of
24 dentistry; or
25 (b) for all other purposes, a person licensed to

1 practice dentistry under the provisions of Title 37, chapter
2 4, who at the time of the occurrence of the incident giving
3 rise to the claim:
4 (i) was an individual who had as his principal
5 residence or place of dental practice the state of Montana
6 and was not employed full-time by any federal governmental
7 agency or entity; or
8 (ii) was a professional service corporation,
9 partnership, or other business entity organized under the
10 laws of any state to render dental services and whose
11 shareholders, partners, or owners were individual dentists
12 licensed to practice dentistry under the provisions of Title
13 37, chapter 4.
14 (2) "Health care facility" means a facility (other
15 than a ~~university--college--or governmental infirmary~~ but
16 including a university or college infirmary) licensed as a
17 health care facility under Title 50, chapter 5.
18 (3) "Health care provider" means a physician, a
19 dentist, or a health care facility.
20 (4) "Hospital" means a hospital as defined in
21 50-5-101.
22 (5) "Malpractice claim" means any claim or potential
23 claim of a claimant against a health care provider for
24 medical or dental treatment, lack of medical or dental
25 treatment, or other alleged departure from accepted

standards of health care which proximately results in damage to the claimant, whether the claimant's claim or potential claim sounds in tort or contract, and includes but is not limited to allegations of battery or wrongful death.

(6) "Panel" means the Montana medical legal panel provided for in 27-6-104.

(7) "Physician" means:

(a) for purposes of the assessment of the annual surcharge, an individual licensed to practice medicine under the provisions of Title 37, chapter 3, who at the time of the assessment:

(i) has as his principal residence or place of medical practice the state of Montana;

(ii) is not employed full-time by any federal governmental agency or entity; and

(iii) is not fully retired from the practice of medicine; or

(b) for all other purposes, a person licensed to practice medicine under the provisions of Title 37, chapter 3, who at the time of the occurrence of the incident giving rise to the claim:

(i) was an individual who had as his principal residence or place of medical practice the state of Montana and was not employed full-time by any federal governmental agency or entity; or

(ii) was a professional service corporation, partnership, or other business entity organized under the laws of any state to render medical services and whose shareholders, partners, or owners were individual physicians licensed to practice medicine under the provisions of Title 37, chapter 3."

Section 2. Applicability. [This act] applies to malpractice claims occurring on or after [the effective date of this act].

-End-

CHAIRMAN--BRUCE CRIPPEN
SECRETARY--ROSEMARY JACOBY
NORMAL SCHEDULE==> SITE: ROOM 325

COMMITTEE--(S) JUDICIARY *SENATE*
DAYS: M,T,W,T,F TIME: 10:00 A.M.

OFFICE--ROOM 412

REFER
BILL ===== DATE === LATEST DATE/ACTION ON BILL =====
NOTE: BILL WILL BE LISTED TWICE IF REREFERRED BACK TO THE SAME COMMITTEE

SB 8	01/03 04/14--(S) CHAPTER NUMBER SPONSOR: ECK, DOROTHY	TITLE-EXEMPT TRIBAL ROYALTIES RECEIVED UNDER 1938 LEASES FROM STATE TAXATION EFFECTIVE DATE: 10/01/89
SB 10	01/02 04/24--TABLED IN COMMITTEE SPONSOR: HALLIGAN, MIKE	TITLE-PROVIDE PROCEDURE FOR SUMMARY DISSOLUTION OF MARRIAGE
✓ SB 12	01/02 03/15--(S) CHAPTER NUMBER SPONSOR: HALLIGAN, MIKE	TITLE-INCLUDE LICENSED UNIVERSITY INFIRMARY IN MEDICAL LEGAL ACT EFFECTIVE DATE: 10/01/89
SB 21	01/02 03/18--(S) CHAPTER NUMBER SPONSOR: HARP, JOHN	TITLE-DEPARTMENT OF REVENUE GRANTED CERTAIN PEACE OFFICER RIGHTS EFFECTIVE DATE: 03/18/89
SB 22	01/02 03/24--(S) CHAPTER NUMBER SPONSOR: ECK, DOROTHY	TITLE-ESTABLISH CENTRAL REGISTRY FOR INTERSTATE CHILD SUPPORT ENFORCEMENT CASES EFFECTIVE DATE: 10/01/89
SB 23	01/02 03/14--(S) CHAPTER NUMBER SPONSOR: JERGESSON, GREG	TITLE-ADMIT VIDEOTAPED TESTIMONY FOR OFFENSES ARISING OUT OF SAME TRANSACTION EFFECTIVE DATE: 10/01/89
SB 31	01/02 03/15--(S) CHAPTER NUMBER SPONSOR: GAGE, DELWYN	TITLE-ADD TOGETHER LOSSES FROM RELATED CRIMINAL MISCHIEFS TO GET HIGHER PENALTY EFFECTIVE DATE: 10/01/89
SB 45	01/03 03/22--(S) CHAPTER NUMBER SPONSOR: MAZUREK, JOE	TITLE-REMOVE REQUIREMENT THAT ADOPTION PETITION BE FILED WITHIN 1 YEAR EFFECTIVE DATE: 10/01/89
SB 54	01/03 04/24--(H) DIED IN COMMITTEE SPONSOR: CRIPPEN, BRUCE	TITLE-CONTINUING LEVY OF EXECUTION FOR WARRANTS FOR DISTRRAINT
SB 55	01/03 03/03--(H) TABLED IN COMMITTEE SPONSOR: HARP, JOHN	(H) TAXATION TITLE-WAGES NOT EXEMPT TO PAY STATE TAX DEBT
SB 79	01/06 03/22--(S) CHAPTER NUMBER SPONSOR: MAZUREK, JOE	TITLE-TRADE AND PROFESSIONAL ASSOCIATION MEMBERS' ARBITRATION EFFECTIVE DATE: 10/01/89
SB 83	R 01/07 04/24--TABLED IN COMMITTEE SPONSOR: NATHE, DENNIS	TITLE-ALLOWING THE DEPT OF REVENUE TO WAIVE THE LATE FILING PENALTY ON CORP TAXES
SB 84	01/07 03/24--(S) CHAPTER NUMBER SPONSOR: VAUGHN, ELEANOR	TITLE-REGISTRATION OF SEXUAL OFFENDERS EFFECTIVE DATE: 07/01/89
SB 85	01/09 03/20--(S) CHAPTER NUMBER SPONSOR: HIMSL, MATT	TITLE-1989 BOND VALIDATING ACT EFFECTIVE DATE: 03/20/89
SB 92	01/10 04/24--TABLED IN COMMITTEE SPONSOR: MEYER, DARRYL	TITLE-ADOPTEE'S ACCESS TO BIRTH RECORDS
SB 102	01/11 04/24--TABLED IN COMMITTEE SPONSOR: PINSONEAULT, DICK	TITLE-RESTRICTIONS ON RENTAL CAR COLLISION DAMAGE WAIVERS
SB 103	01/13 02/28--(H) TABLED IN COMMITTEE SPONSOR: JERGESSON, GREG	(H) JUDICIARY TITLE-PROHIBIT FELON'S CIVIL RECOVERY
SB 105	01/18 04/28--(H) SIGNED BY SPEAKER SPONSOR: MAZUREK, JOE	TITLE-DRIVER LICENSE INFORMATION TO SELECTIVE SERVICE EFFECTIVE DATE: 10/01/89

MINUTES

MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bruce Crippen, on January 4, 1989, at 10:00 a.m. in Room 325 of the Capitol.

ROLL CALL

Members Present: Senators Bruce Crippen, Al Bishop, Tom Beck, Mike Halligan, Bob Brown, Joe Mazurek, Loren Jenkins, R. J. "Dick" Pinsoneault, John Harp, and Bill Yellowtail.

Members Excused: None.

Members Absent: None.

Staff Present: Valencia Lane, Staff lawyer and Rosemary Jacoby, Committee Secretary.

Announcements/Discussion: Chairman Crippen welcomed the committee members to the first hearing of the session. New member, Loren Jenkins, was introduced as was John Harp who was delayed presenting a bill in another hearing. The remaining members of the committee, the staff attorney and the committee secretary were also introduced. Committee Chairman Crippen explained the customary order of business which would be observed during the session. He explained that bills would be acted upon during Executive Session and that he preferred no motions be made during hearings. He hoped to limit hearings to five bills per meeting. Two further introductions were made: William Mutch of Polson, the committee intern and Brian Cebull of Billings, a page sponsored by Senator Crippen.

HEARING ON SENATE BILL 12

Presentation and Opening Statement by Sponsor: Senator Mike Halligan, representing District 29, opened the hearing on the bill stating that it is to include licensed university infirmaries in the Medical-Legal Act. A former bill in a previous legislative session created an exclusion, but the infirmary at the University of Montana, the only licensed college-level infirmary in the state, now feels a need for inclusion to be legally protected.

List of Testifying Proponents and What Group they Represent:

Dr. Bob Curry, representing the medical people at the University of Montana infirmary.

List of Testifying Opponents and What Group They Represent:

There were none.

Testimony:

Dr. Curry said that the medical people connected to the university infirmary felt that they were in jeopardy since they were no longer protected by the Medical-Legal Act. They requested reinclusion.

Questions From Committee Members: Senator Mazured asked if payment for this protection would be required of the medical staff at the infirmary. Dr. Curry said yes, they would be assessed in the same manner as other hospitals or infirmaries, according to the number of beds, he thought.

Sen. Pinsoneault asked if the junior college infirmaries would be affected by the bill. Senator Halligan said he didn't know but thought all college infirmaries would be included.

Closing by Sponsor: Senator Halligan closed the hearing.

DISPOSITION OF SENATE BILL 12

Discussion: Senator Halligan wanted to clarify the question about whether junior colleges would be covered by the inclusion of infirmaries in the Medical Act. Discussion brought out the fact that the UM infirmary was the only one in the state that was not an out-patient clinic, hence the only one affected, it was thought.

Amendments and Votes: There were no amendments offered.

Recommendation and Vote: Senator Halligan MOVED that Senate Bill 12 DO PASS. Senator Beck asked what the benefit of this bill would be. He was answered by Senator Mazurek who said that, before a malpractice suit could

be brought against a doctor in the infirmary, the case would be reviewed by a panel of three doctors and three attorneys. Presently, the review panel is not provided by law for these doctors. After further discussion, Senator Halligan's MOTION PASSED UNANIMOUSLY.

HEARING ON SENATE BILL 31

Presentation and Opening Statement by Sponsor: Senate Bill 31, sponsored by Senator Del Gage of District 5, was presented to the committee by Senator Bruce Crippen for Senator Gage who was attending another meeting.

List of Testifying Proponents and What Group they Represent:

John Connor, Department of Justice, representing the County Attorneys' Association

List of Testifying Opponents and What Group They Represent:

There were none.

Testimony: John Connor, who conducts training for the County Attorneys, said they requested the bill because of a problem that has confronted them for some time. In cases where an individual commits multiple acts of criminal mischief, the damage (when added together) might total more than \$300. Prosecution of these cases has been very frustrating because, taken individually, the damage might be less than \$300. He said there is a provision for taking an aggregate of bad checks, and felt the same principle could apply in the case of misdemeanor mischief when committed multiple times. He felt that when the damage was great, the individual committing the offenses should be charged as a felon.

Questions From Committee Members: Senator Pinsoneault asked if this law would apply in the case of a drunk individual who drove through a gate and caused damage. Mr. Connor said yes, it would if the offense was one of a continuing set of offenses. It would be considered to be constituting criminal design, even though the person was intoxicated.

Closing by Sponsor: Senator Crippen closed the hearing.

STANDING COMMITTEE REPORT

January 4, 1989

Hr. President: We, the committee on Judiciary report that SB 12
(first reading copy -- white) do pass.

Signed: Bruce Douglas Clifton
Bruce Douglas Clifton, Chairman

Y. C. a. m.
30
8:15 189

sc18b317.104

STATUS SHEET

51 LEGISLATIVE SESSION

JUDICIARY

COMMITTEE

House

BILL NUMBER	ENTERED COM. DATE	DATE CON- SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON- CURRED IN DATE	BE NOT CON- CURRED IN DATE	BE CON- CURRED IN AMENDED DATE	BE NOT CONCURRED IN AS AMENDED DATE
SB 12	2-21	3-3	3-3					3-3			
SB 21	2-21	3-7	3-7					3-7			
SB 22	2-21	3-10	3-10					3-10			
SB 23	2-21	2-28	2-28					2-28			
SB 31	2-21	3-2	3-2					3-2			
SB 36	2-21	3-2	3-2					3-2			
SB 38	2-21	3-1	3-1					3-1			
SB 42	2-21	3-10	3-10							3-10	
SB 45	2-21	3-8	3-8					3-8			
SB 54	2-21	3-16	TABLED ON 3-22								
SB 66	2-21	3-1	3-1					3-1			
SB 68	2-21	3-15	3-15					3-15			
SB 79	2-21	3-9	3-9					3-9			

Use a separate sheet for Senate Bills, House Bills, and Resolutions.

before it was automatically revoked.

Rep. Mercer stated that the whole concept is beyond the scope of the title of how this bill was originally introduced. It doesn't seem that it was intended at all to restrict employment directly. Rep. Mercer suggested that perhaps a better way to approach this would be to make this information available to anyone who is going to be hiring and let them make their own decision.

Amendments, Discussion, and Votes: Rep. Eudaily moved to amend section 9 out of the bill, motion seconded by Rep. Hannah. A vote was taken on the amendment and CARRIED with Rep. Darko voting No.

Rep. Gould moved to amend page 4, lines 2-6, strike "liability for non-compliance with", insert the convicted sexual offenders duty to register under. Motion seconded by Rep. Knapp and CARRIED unanimously.

Rep. Hannah motioned to amend page 2, line 1, 45-5-507, following incest statute, insert (unless the act occurred between two consenting persons 16 years of age or older). Motion seconded by Rep. Mercer and CARRIED unanimously.

Recommendation and Vote: No further action was taken on SB 84.

HEARING ON SENATE BILL 12

Presentation and Opening Statement by Sponsor:

Senator Mike Halligan, Senate District 29 in Missoula stated that the purpose of SB 12 is simply to allow the same medical legal panel to be used in a malpractice claim when a doctor or health care professional or the facility is sued.

Testifying Proponents and Who They Represent:

Sheila Stearns, University of Montana

Proponent Testimony:

Sheila Stearns, voicing support of SB 12 stated that she was speaking on behalf of Dr. Robert Curry, Director of the University of Montana Health Service. The University clearly supports this bill and believes it simply extends to all college and university health operations the same intervening layer of protection from frivolous malpractice suits that is already extended to the rest of the medical community.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members: None.

Closing by Sponsor: Sen. Halligan commented that the fees that will be required to pay as every doctor and health care facility and currently paying are already anticipated by the students and by the health care facilities. There are fees that are levied to operate the panel and they have already been considered by Dr. Curry at the infirmary.

DISPOSITION OF SENATE BILL 12

Motion: A motion was made by Rep. Eudaily to BE CONCURED IN, motion seconded by Rep. Gould.

Discussion: None.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: A vote was taken and CARRIED unanimously that SB 12 BE CONCURED IN.

HEARING ON SENATE BILL 135

Presentation and Opening Statement by Sponsor:

Senator Mike Halligan stated that when a person files bankruptcy they must go to a federal court. The intent of the exemption committee and lien law is to balance the federal changes other states around us, as far as the exemptions go, and make it a \$3,000.00 plan for implements, professional books and tools. Sen. Halligan stated that the purpose of SB 135 is to make clear what the committee intended to do and add the word "aggregate".

Testifying Proponents and Who They Represent:

Bob Pyfer, Vice President, Montana Credit Unions League

Proponent Testimony:

Bob Pyfer stated to the committee that he was involved in the interim committee and voiced his support of SB 135.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

STANDING COMMITTEE REPORT

March 3, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that
SENATE BILL 12 (REFERENCE copy -- blue) be concurred in.

Signed: _____
Dave Brown, Chairman

[REP. BROOKE WILL CARRY THIS BILL ON THE HOUSE FLOOR]

DAILY ROLL CALL

JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date MARCH 3, 1989

NAME	PRESENT	ABSENT	EXCUSED
REP. KELLY ADDY, VICE-CHAIRMAN			X
REP. OLE AAFEDT	X		
REP. WILLIAM BOHARSKI	X		
REP. VIVIAN BROOKE	X		
REP. FRITZ DAILY			X
REP. PAULA DARKO	X		
REP. RALPH EUDAILY	X		
REP. BUDD GOULD	X		
REP. TOM HANNAH	X		
REP. ROGER KNAPP	X		
REP. MARY McDONOUGH	X		
REP. JOHN MERCER	X		
REP. LINDA NELSON	X		
REP. JIM RICE	X		
REP. JESSICA STICKNEY	X		
REP. BILL STRIZICH	X		
REP. DIANA WYATT	X		
REP. DAVE BROWN, CHAIRMAN	X		